

Therefore, the mandatory minimum no longer constituted the bottom of the guideline range and in determining the appropriate sentence reduction below the mandatory minimum, this Court took into account, among other factors, the actual guideline range which would have been applicable but for the mandatory minimum. Herron's actual sentence of 210 months, at least to some extent, was influenced by and "based [in part] on a sentencing range that has been subsequently lowered" within the meaning of 18 U.S.C. § 3582(c)(2).

Based on the amended guideline range, this Court will impose an amended sentence that is in proportion to the current sentence. The Court hereby sentences Mr. Herron to **time served plus ten days**. Accordingly,

1. Defendant's motion to reduce sentence is GRANTED.
2. Defendant's motion to rescind order is GRANTED
3. Defendant's motion to brief is DENIED as moot.

IT IS SO ORDERED.

Signed: July 31, 2008



Graham C. Mullen
United States District Judge

